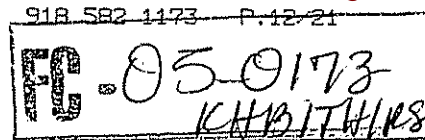


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RHODES HIERONYMUS

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA**

RECEIVED

JUN 15 2006

State of Oklahoma, ex rel. W.A. Drew )  
Edmondson, in his capacity as Attorney )  
General of the State of Oklahoma and )  
Oklahoma Secretary of the Environment )  
C. Miles Tolbert, in his capacity as the )  
Trustee for Natural Resources for the )  
State of Oklahoma, )

Plaintiff,

v.

Tyson Foods, Inc., Tyson Poultry, Inc., )  
Tyson Chicken, Inc., Cobb-Vantress, Inc., )  
Aviagen, Inc., Cal-Maine Foods, Inc., )  
Cal-Maine Farms, Inc., Cargill, Inc., )  
Cargill Turkey Production, LLC, )  
George's, Inc., George's Farms, Inc., )  
Peterson Farms, Inc., Simmons Foods, Inc., )  
and Willow Brook Foods, Inc. )

Defendants.

Case No. 4:05-CV-00329-TCK-SAJ  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA  
CLERK GENERAL  
INVESTIGATION DIVISION

**CARGILL, INC.'S RESPONSE TO PLAINTIFF'S FIRST REQUEST FOR  
PRODUCTION OF DOCUMENTS**

**GENERAL OBJECTIONS**

A. Definitions: Cargill, Inc. objects to certain of the words and phrases used by Plaintiff in its document requests as overbroad and unduly burdensome. Such objection includes, but is not limited to, Plaintiff's definition of "Cargill, Inc.," "You" and "Your" to include "Contract Growers," "subsidiaries" and "shareholders," each of which are independent individuals or entities not a party to this action.<sup>1</sup> Whenever Plaintiff uses the phrases "Cargill,

<sup>1</sup> Cargill Turkey Production, LLC is currently a wholly owned subsidiary of Cargill Meat Solutions Corporation, which is a wholly owned subsidiary of Cargill, Inc. Cargill Turkey Production, LLC is a named defendant in this action and will serve its own responses to any discovery interposed by Plaintiff.



Inc., " "You" or "Your," Cargill, Inc. will interpret the phrases to refer only to the named defendant, Cargill, Inc., its employees, agents, and divisions. This objection also includes Plaintiff's definition of Illinois River Watershed ("IRW") to the extent that it includes "groundwater" or "indirect" flow of water to the Illinois River.

B. Privileges: Cargill, Inc. objects to Plaintiff's document requests as overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks to invade information or documents protected by the attorney-client, work product, self-evaluative, or joint defense privileges.

C. Scope; date and geographic range: Cargill, Inc. objects to the absence of any reasonable limit to date range and to the geographic scope in these document requests as overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Such objection includes but is not limited to the facts that, as currently phrased, Plaintiff's document requests purport to (1) seek information or documents prior to 2002, which Cargill, Inc. understands to be the earliest time period allowed by the statutes of limitation applicable to Plaintiff's claims and (2) place upon Cargill, Inc. a continuing burden to "supplement" its answers for all of its future poultry growing operations, if any, in a manner that is inconsistent with the meaning and intent of Fed.R.Civ.P. 26(e). This objection also includes Plaintiff's attempt to unilaterally expand the scope of watersheds and drainage basins to include groundwater and/or indirect runoff.

D. Option to Produce Documents: Cargill, Inc. further objects to these document requests to the extent that they purport to require Cargill, Inc. to produce documents in any particular format. Pursuant to Rule 34(b) of the Federal Rules of Civil Procedure, Cargill, Inc. will use its discretion in producing non-privileged, responsive documents either (1) as they are kept in the usual course of business or (2) organized and labeled to correspond with the categories in these requests.

E. No waiver of objection or admissibility: In responding to these document requests, Cargill, Inc. is asked for and supplies information regarding the existence and location of various documents or other information. In responding to this inquiry, Cargill, Inc. is not waiving future objections to either production in discovery or admissibility at trial of any document or information supplied or referred to in discovery.

F. Continuing discovery: In responding to these document requests, Cargill, Inc. has supplied all information and documents known to it at this time after a reasonable inquiry. However, discovery is continuing. Should future discovery reveal any further information or documents as to the matters at issue herein, Cargill, Inc. will supplement its answers as necessary in accordance with the Federal Rules of Civil Procedure.

Without waiving the foregoing objections, but hereby incorporating each of them by reference in the specific responses as if fully set forth therein, and subject thereto, Cargill, Inc. further states and alleges as follows:

**RESPONSES TO DOCUMENT REQUESTS**

**REQUEST NO. 1:** Please produce copies of any and all documents reflecting, referring or relating to the dates subsequent to the service of this request for production on which you will be/are scheduled to be catching, picking up, and/or removing flocks from each of your poultry operations, as well as the dates, as well as any and all documents reflecting, referring or relating to the dates subsequent to the service of this request for production on which you will be/are scheduled to be placing new flocks into each poultry operation within the Illinois River Watershed.

**RESPONSE:** Cargill, Inc. objects to this request to the extent that it seeks confidential and proprietary trade secret or business documents without entry of an appropriate confidentiality and protective order. Cargill, Inc. further objects to this request as overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it: seeks documents for an unspecified future time period that has no end or limit; would require "supplementation" in a manner inconsistent with the meaning and intent of Fed.R.Civ.P. 26(e); seeks production of information from individuals or entities other than Cargill, Inc., the named Defendant in this action; and seeks to define the IRW as including groundwater and/or indirect runoff.

Subject to and without waiving these objections, Cargill, Inc. states that it has no documents responsive to this request.

**REQUEST NO. 2:** Please produce copies of any and all documents referring or relating to any document retention and document destruction policies considered, proposed or adopted by you since 1970, including the policies themselves, any amendments or changes considered, proposed or adopted thereto, any drafts or any policies, amendments or changes,

and any documents referring or relating to the implementation of the policies, amendments or changes.

**RESPONSE:** Cargill, Inc. objects to this request to the extent that it seeks confidential and proprietary trade secret or business documents without entry of an appropriate confidentiality and protective order. Cargill, Inc. objects to this request as overbroad and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it: seeks information protected by the attorney-client, work product or self-evaluative privileges; seeks documents prior to 2002; seeks documents for an unspecified future time period that has no end or limit; would require "supplementation" in a manner inconsistent with the meaning and intent of Fed.R.Civ.P. 26(e); seeks production of information from individuals or entities other than Cargill, Inc., the named Defendant in this action; and seeks all documents "referring or relating to" Cargill, Inc.'s document retention policies.

Subject to and without waiving these objections, Cargill, Inc. will produce its document retention policies in effect from 2002 to 2004 (when it ceased its turkey production practices), including a summary of any changes or revisions to said policies which are available as of the date of this response.

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RHODES HIERONYMUS

918 582 1173 P.16/21

RHODES, HIERONYMUS, JONES, TUCKER & GABLE, PLLC

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**CERTIFICATE OF SERVICE**

I certify that on the 15 day of June, 2006, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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